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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,781	10/17/2001	Cisse W. Spragins	Rock-PFT-1	6688

7590

07/17/2002

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EXAMINER

GRILES, BETHANY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,781

Applicant(s)

SPRAGINS, CISSE W.

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 18, 19, 22-26 and 28-31, 34, 35 is/are rejected.
- 7) ☒ Claim(s) 15-17, 20, 21, 27, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 recites the limitation "said feet" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12, 14, 18, 19, 22-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contadini et al. (US 6,219,960) (hereinafter referred to as 960) in view of Cardinet (US 1,634,648) (hereinafter referred to as 648).

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Regarding claim 1, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening (see fig 2).

960 does not disclose that the cup is from the group of paper and plastic cups.

648 discloses a paper cup (col 1, line 50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of 648 to the invention of 960 in order to utilize a lightweight and disposable poison or bait container.

Regarding claim 2, 960 discloses that the sidewall of the cup 32 is tapered to be engaged by the base 30 (see fig 2).

Regarding claim 3, 960 discloses that the base 30 includes a tapered portion.

Regarding claim 4, 960 discloses that the tapered portion of the cup 32 and the tapered portion of the base 30 confront each other so the cup can be wedged inside the base (see fig 2).

Regarding claims 5 and 26, 960 discloses a retainer 22 which engages the base 30 and the cup 32.

Regarding claim 6, 960 discloses that the retainer 22 is tapered along one edge (see fig 3a) and is engagable with the base when turned right side up or upside down.

Regarding claim 7, 960 discloses that the retainer 22 is engagable with the base when turned right side up or upside down (see fig 3a).

Regarding claim 8, 960 discloses that the retainer comprises a tapered annular ring (see fig 5).

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Regarding claim 10, 960 discloses a cover 20 engagable with the base 30.

Regarding claim 11, 960 discloses that the base 30 and cover 20 include a common axis (see fig 4) and the extension (see fig 4) must resiliently move to bring the cover and base into engagement with each other.

Regarding claim 12, 960 discloses that the base includes a receptor for the extension (see fig 4) wherein the extension must resiliently move to bring the cover and base into engagement with each other.

Regarding claim 14, 960 discloses that the extension must resiliently move to bring the cover and base out of engagement with each other (see fig 4).

Regarding claim 18, 960 discloses that portions of the cover (see fig 5a) are spaced from the base to form an insect opening.

Regarding claim 19, 960 discloses that the retainer 22 includes an upper and lower edge portion (see fig 4), spaced from an underside of the cover 20 at about a height of an insect wherein the lower edge portion extends over and beyond the cup opening (see fig 4).

Regarding claim 22, 960 discloses that the base 30 contains fins 34 (see fig 3a).

Regarding claim 23, 960 discloses that the cup 32 includes a lip 32a and wherein the base comprises an annular seat for seating the lip (see fig 3a).

Regarding claim 24, 960 discloses that the base is offset from the floor of the cup (see fig 3a).

Regarding claim 25, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening

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(see fig 2); a retainer 22 for confronting the edge of the base 30 and the cup 32; a cover 20 engagable to the base 30; wherein there is an insect opening for access by an insect into the cup (see fig 6).

960 does not disclose that the cup is from the group of paper and plastic cups.

648 discloses a paper cup (col 1, line 50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of 648 to the invention of 960 in order to utilize a lightweight and disposable poison or bait container.

Regarding claim 28, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening (see fig 2); a retainer 22 for confronting the edge of the base 30 and the cup 32; a cover 20 engagable to the base 30; wherein there is an insect opening for access by an insect into the cup (see fig 6).

Claims 13, 29, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over 960 in view of 648, as applied to the claims above, and further in view of Pierson (US 5,520,305) (hereinafter referred to as 305).

Regarding claims 13, 29, and 30, 960 as modified by 648 discloses the insect bait station (fig 2 960, fig 3 648).

960 as modified does not disclose a two-step process to bring the base and cover together.

305 discloses a two step process for removing a cap (col 2, lines 44-51).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 305 to the invention of 960 as modified by 648 in order to make a more tamper and weather resistant bait station.

Regarding claim 31, 960 as modified by 648 discloses the insect bait station (fig 2 960, fig 3 648).

960 as modified does not disclose a lock.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put a lock on the bait station to avoid tampering or possible ingestion of the harmful substance contained in the bait station by children or animals. Moreover, this claim is of such a broad and general nature that it could read on any locking device in almost any item.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over 960 in view of Lingren (US 6,393,760) (hereinafter referred to as 760).

960 discloses that the station may be placed in the ground (col 7, line 42).

960 does not disclose that the station may be hung above the ground.

760 discloses that the station may be hung above the ground (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 760 to the invention of 960 in order to catch a wider variety of insects.

Claim 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Cardinet (648).

648 discloses a first piece 16, a second piece 10, and harborage 14 with a flap foldable between a relatively closed and a relatively open position (see figs 2 and 3).

648 does not disclose a tip.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a tip on the end of the harborage, as it would be an ideal structure on which to place poison.

Allowable Subject Matter

Claims 15-17, 20, 21, 27, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rollins D456,058; Stevenson et al. D456,481 ; Gring US1,714,666 ; Ballard et al. US6,219,961; Washburn US6,374,536; Masterson US6,370,811; Snell et al. US6,378,243; Hahn DE3429002A1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

Bethany L. Griles
Examiner
Art Unit 3643

blg
July 9, 2002



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